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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,503	07/22/2003	Masahiro Ida	Q76108	8015

7590 03/02/2005

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EXAMINER

BONCK, RODNEY H

ART UNIT	PAPER NUMBER
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3681

DATE MAILED: 03/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/623,503

Applicant(s)

IDA ET AL.

Examiner

Rodney H. Bonck

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,7,8,10 and 11 is/are rejected.
- 7) ☒ Claim(s) 2,5,6,9,12 and 13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The following action is in response to the amendment received December 30, 2004.

Specification

The amendment to the specification overcomes the objection set forth in the previous Office action. The objection to the specification is withdrawn.

Claim Objections

The amendment to claim 2 overcomes the objection set forth in the previous Office action. The objection to claim 2 is withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by either Kageyama et al.(US 2001/0011616 A1) or Christenson('716). The Kageyama et al. device shows a transmission comprising a pump unit 22, a transmission mechanism (inside casing 3), a pump casing (not numbered, but shown in Fig. 1), a pump drive

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shaft (not numbered, but shown in Fig. 1), a bearing member (Fig. 1), a seal member (Fig. 1), an oil reservoir (Fig. 1), and a oil drain passage (Fig. 1) connecting the reservoir with the transmission case. The clutch member 7 includes an outer case that provides a shielding member between an opening of the oil drain passage and at least part 70,71 of the transmission mechanism. The pump casing is shown directly fixed to the transmission case. Similarly, Christenson discloses shows a transmission comprising a pump unit 90,91, a transmission mechanism 15, a pump casing 22, a pump drive shaft 83, a bearing member 85, a seal member 86, an oil reservoir (between the bearing and the seal), and a oil drain passage 87 connecting the reservoir with the transmission case. The drum 81 of transmission mechanism 15 provides a shielding member between an opening of the oil drain passage and at least part of the transmission mechanism. The pump casing is shown directly fixed to the transmission case.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation

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under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 3 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Kageyama et al.(US 2001/0011616 A1) or Christenson('716) in view of Snow et al.('840). In both Kageyama et al. and Christenson the drain passage is shown as extending downward and opening below the pump shaft. Snow et al. shows a drain line 210 for the reservoir defined between shoulder 166 and seal 150 (see Fig. 7) that extends upwardly from the reservoir and opens above the pump shaft. It would have been obvious to so dispose the drain in Kageyama et al. and Christenson, the motivation being to better retain lubricant in the reservoir.

Claims 4 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kageyama et al.(US 2001/0011616 A1) or Christenson('716) in view of Industriewerk Schaeffler (IS) (DT 2 305 476). It is unclear Kageyama et al. or Christenson provide a race in contact with the bearing hole, a roller in rolling contact with the pump shaft, and a seal in the race member. The IS('476) document shows a pump shaft 1 with a bearing race 4 in contact with the bearing hole in member 8, a roller 3 in contact with the pump shaft, and a seal 5,6 in the race 4. It would have been obvious to provide this

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bearing arrangement in either Kageyama et al. or Christenson, the motivation being to use a bearing arrangement known to be appropriate for use in a pump.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kageyama et al.(US 2001/0011616 A1) or Christenson('716) in view of Snow et al.('840) as applied to claim 3 above, and further in view of Industriewerk Schaeffler (IS) (DT 2 305 476). It is unclear Kageyama et al. or Christenson provide a race in contact with the bearing hole, a roller in rolling contact with the pump shaft, and a seal in the race member. The IS('476) document shows a pump shaft 1 with a bearing race 4 in contact with the bearing hole in member 8, a roller 3 in contact with the pump shaft, and a seal 5,6 in the race 4. It would have been obvious to provide this bearing arrangement in either Kageyama et al. or Christenson, the motivation being to use a bearing arrangement known to be appropriate for use in a pump.

Allowable Subject Matter

Claims 2, 5, 6, 9, 12, and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed December 30, 2004 have been fully considered but they are not persuasive. Applicant indicates that the examiner considers the "L'-

shaped plate” in Kageyama et al. to be the claimed shielding member. The examiner apologizes if he gave that impression. The rejection set forth in the previous Office action makes it clear what elements are considered to read on the claimed shielding member. Regarding Kageyama et al., the rejection states that “clutch member 7 includes an outer case that provides a shielding member between an opening of the oil drain passage and at least part 70,71 of the transmission mechanism.” Regarding Christenson, the rejection states that “drum 81 of the transmission mechanism 15 provides a shielding member between an opening of the drain passage and at least part of the transmission mechanism.” The shielding member is not defined in a manner that distinguishes over Kageyama et al. or Christenson in claims 1 and 8. The rejections of claims 1, 3, 4, 7, 8, 10, and 11 are still believed proper.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney H. Bonck whose telephone number is (703)-308-2904. The examiner can normally be reached on Monday-Friday 7:00AM - 3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on (703)-308-0830. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Rodney H. Bonck
Primary Examiner
Art Unit 3681

rhb
February 24, 2005